IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

In re:	Application No. 09/425,436	*Confirmation No. 9564*
Filed:	October 22, 1999	
Applicants:	Richard Robert CAPPADONA et al.	
Title:	LID FOR COOKING PAN	
Art Unit:	1761	
Examiner:	Drew E. BECKER	
Attorney Docket:	7015/66635	
Customer No.:	22242	

CERTIFICATE OF MAILING

I hereby certify that this paper (along with any paper referred to as being attached or enclosed) is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to the Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on this date.

1/25/2006 Jeffrey A. Chelstrom
Date Registration No. 57,915
Attorney for Applicant(s)

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Commissioner for Patents
P. O. Box 1450
Alexandria, Virginia 22313-1450

APPELLANTS' BRIEF ON APPEAL UNDER 37 C.F.R. § 41.37

Sir:

This Appeal Brief is filed pursuant to the Office Action dated October 25, 2005 and is being filed in triplicate.

I. REAL PARTY IN INTEREST

Carico International Inc. is the assignee of the above-named patent application.

II. RELATED APPEALS AND INTERFERENCES

Appellants previously filed an Appeal Brief dated April 29, 2005 to appeal the final rejection of claims 20-23. In response, prosecution was reopened in an Office Action dated October 25, 2005.

III. STATUS OF CLAIMS

Claims 2-6 and 8-23 are pending. Claims 2-6 and 8-19 are allowed. Claims 20 and 23 are the pending independent claims that are at issue in this appeal and stand at least twice rejected. Claims 1 and 7 are cancelled. A claims appendix presents the claims at issue in the appeal.

IV. STATUS OF AMENDMENTS

In the Office Action dated October 25, 2005 re-opening prosecution, claim 21 was rejected under 35 U.S.C. § 112 as being indefinite for failing to particularly point and distinctly claim the subject matter of the invention. Concurrently with this Appeal Brief, Applicants filed an amendment to address the rejection under section 112. Applicants are filing this Appeal Brief as if the amendment to claim 21 is to be entered because the amendment places claim 21 in a better condition for appeal.

V. SUMMARY OF CLAIMED SUBJECT MATTER

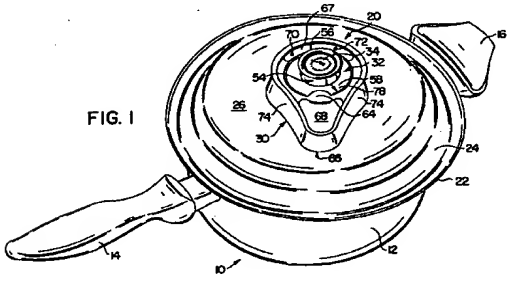
The claimed invention at issue relates to waterless cookware (claims 20-22) and to a method of waterless cooking (claim 23). With references to the preferred embodiment shown in the drawings, the cookware of independent claim 20 and the cookware used in the method of independent claim 23 includes a cooking vessel

that is suitable for use in stove top waterless cooking. (Spec. page 3, line 21 through page 4, line 4.)

As recited in independent claim 23, waterless cooking is a method of sub-atmospheric cooking that uses little or no water. For instance, wet food items may be placed in a pan 10 having a lid assembly 20 and heated without the introduction of any additional liquid. (Spec. page 4, lines 4-16.) During cooking, the temperature in the interior of pan 10 above the food item is indicated by a thermometer 32 that comprises a part of the lid assembly. (*Id.*) When the temperature in the pan 10 reaches a predetermined point, the rate at which the heat is applied to the pan 10 is lowered by the cook. (*Id.*) At this point, any open vents (such as vents or openings 48 or 52) in the lid assembly 20 are closed and the food item continues to cook at low temperatures and pressures. (*Id.*) Such a method cooks the food item by using less energy and preserves the nutrients of the food as compared to other cooking methods.

The waterless cookware of independent claim 20 includes a cooking vessel that has a pan 10 and a removable lid assembly 20. (Spec. page 3, lines 17-24.) The disclosed pan 10 is also suitable for the method of waterless cooking in independent claim 23. (Spec. page 4, line 4.) As illustrated in FIGS. 1 and 2 of the application, which are reproduced below for convenience, the lid assembly 20 includes an upper surface 26, a lower surface 28, and a knob assembly 30, which includes a knob body 66 and a thermometer 32. (Spec. page 4, line 18 – page 5, line 1.)

FIG. 1



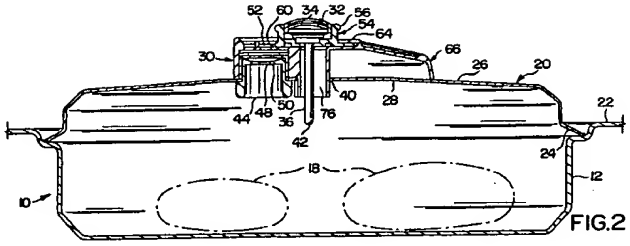


FIG.2

The thermometer 32 has a probe 36 extending through an aperture 38 in the knob body 66 and through an opening 40 in the lid to a location beneath the lower surface 28 of the lid. (Spec. page 34 – page 5, line 2.) As best shown in FIG. 2 above, the thermometer 32 has a lower end 42 that is slightly above the elevation of a rim 24; therefore, the probe measures the temperature of the air and vapor in the interior of the pan 10 above the food item 18. (Spec. page 5, lines 3-7.) The thermometer, in such a position, can instantaneously measure the temperature of the air or vapor in the pan 10 without its response time being delayed by a proximal effect of the lid 20, the food items 18, or the knob assembly 30. (Spec. page 5, lines 5-10.) The thermometer 32 is preferably removable for ease of cleaning. (Spec. page 3, lines 3-7.)

VI. GROUNDS OF REJECTION TO BE REVIEWED ON APPEAL

1. Would claims 20-22 have been obvious to one of ordinary skill in the art at the time the invention was made over Barbour (U.S. Patent No. 6,293,271) in view of Bosch (DE 75 27 182)?

2. Was claim 23 obvious to one of ordinary skill in the art at the time the invention was made over Barbour in view of Bosch and Hupf et al. (U.S. Patent No. 6,004,000)?

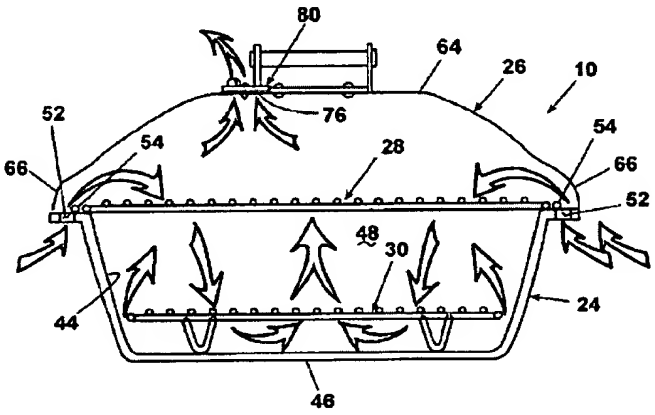
VII. ARGUMENT

Upon re-opening prosecution in response to Applicant's Appeal Brief dated April 29, 2005, the current Office Action continues to propose combinations of references that are distinct from Applicants' field of endeavor in waterless cookware, i.e., a field of endeavor that requires a cooking utensil suitable for sub-atmospheric cooking. Moreover, even if combined as suggested, the resultant combinations still do not teach all the required claim limitations.

A. Cited References

1. US 6,293,271 [Barbour]

Barbour discloses a cooking appliance for use in outdoor cooking as disclosed in FIGS. 1-4 and as described in the Related Art section of The Background of the Invention. The appliance includes a base portion and a removable cover. Airflow between ambient conditions and a cooking chamber is adjustable by rotating the cover as shown in FIG. 9 reproduced below.



As illustrated in FIGS. 8 and 12 (with FIG. 12 being reproduced in part below), the lid includes a vent and an opening for a thermometer 78 that is separate from the handle.

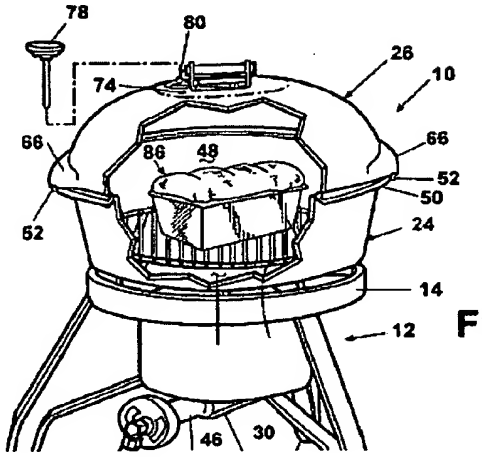
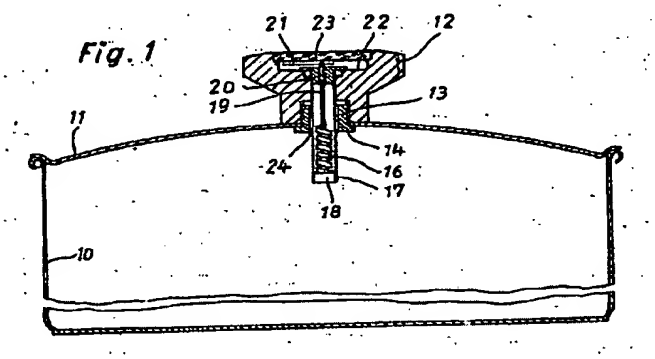


Fig. 12

2. DE 75 27 182 [Bosch]

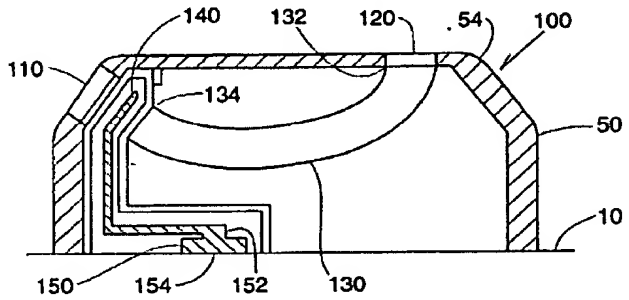
An English Translation of this reference was provided in the Notice of References cited of the Office Action dated March 9, 2004. Bosch discloses a cooking pot for cooking and frying foods with a thermometer attached to a knob. The knob and thermometer are removable as a unit. The thermometer is not removable from the knob for cleaning. FIG. 1 from Bosch appears below.



3. U.S. 6,004,000 [Hupf et al.]

Hupf et al. [Hupf] relates to a fixed temperature indicating device for a cooking vessel. Hupf teaches methods of waterless cooking using a lid having a

knob cover 50 containing a temperature sensing element 150 within the knob cover. As shown in FIG. 1 (reproduced below), the temperature sensing element 150 does not protrude below the surface of the lid.



B. Claims 20-22 would not have been obvious over Barbour in view of Bosch at the time the invention was made

Claims 20-22 are directed to cookware suitable for sub-atmospheric, waterless cooking that also include a thermometer removable from a knob body for cleaning

1. There was no suggestion or motivation to combine the references to teach or suggest waterless cookware

The reference to "waterless" in the present application and claims does not constitute a simple reference to cooking in the absence of water. Indeed, various forms of cooking are achieved without adding water during the process. Instead, as is well understood in the art, "waterless" here refers specifically to a style of cooking that creates and then employs sub-atmospheric pressure during the heating and cooking process.[1]

[1] See, e.g., Declaration of Richard R. Cappadona, at page 2-3. "In contrast, waterless cooking takes place at reduced temperatures and at reduced pressures, i.e., under sub-atmospheric or partial vacuum conditions." In addition, a keyword search on Google.com on January 25, 2006 using the

The current Office Action continues to combine references from fields of endeavor distinct from waterless cookware. For the rejection of independent claim 20, the new Office Action proposes that a reference related to outdoor cooking (Barbour) be combined with a reference related to a vessel for frying foods (Bosch). Neither reference discloses waterless cookware, which requires cooking at sub-atmospheric pressures. Applicants respectfully submit that such references can not be combined as proposed because one of ordinary skill in the art of waterless cookware would not logically look to such references for suggestions or modifications to waterless cookware.

Barbour describes that his invention relates to outdoor cooking as shown in the figures and described in the Background of the Invention. Bosch, in the English translation, relates to a vessel for cooking or frying foods. Neither references disclose cooking utensils suitable for low-pressure, waterless cooking, which requires a cooking vessel that can achieve pressures below atmospheric. While Barbour discloses vents that can be closed, Barbour does not disclose providing vents that will seal sufficiently to provide low pressure cooking as required in waterless cookware. This is not surprising, of course, as providing such a vent in the context of Barbour's outdoor cooking appliance would not serve any particular useful purpose and more likely could lead to unhealthy and/or unsafe cooking conditions (as, ironically, using such a vent in outdoor cooking would likely lead to an *increase* of pressure within the cooking chamber rather than a decrease of pressure as characterizes sub-atmospheric cooking).

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keywords "waterless" and "cooking" returned the top three results on the methods of waterless cooking.

2. The proposed combination of Barbour and Bosch does not disclose a thermometer removable from a knob body

On the other hand, even if Barbour and Bosch are combined as proposed, the combination still does not teach all the claim limitations. Independent claim 20 requires a thermometer that is removable from a knob body. The proposed combination does not disclosure such feature.

Barbour discloses a separate thermometer that is inserted through the lid and not a knob body. Accordingly, Barbour's thermometer is never associated with a knob body. Bosch, on the other hand, discloses a thermometer integrally and permanently encased by a handle. The thermometer of Bosch is ***not*** removable from the handle for cleaning. Rather, the entire handle and thermometer combination of Bosch is removable as single unit. The combination of Barbour with Bosch, therefore, also does not disclose a thermometer removable from a knob body for cleaning. By combining these references, one either achieves a combination of Bosch's integral thermometer-and-knob with Barbour's structure or Barbour's non-knob-oriented removable thermometer with Bosch's structure. Only the Applicants' specification provides a teaching that a thermometer be removably disposed within a knob, and of course that hindsight teaching is unavailable for the purposes of making a determination of unobviousness.

Accordingly, in light of the response herein, the Applicants respectfully request reconsideration and allowance of claims 20-22.

C. Claim 23 would not have been obvious over Barbour in view of Bosch and Hupf at the time the invention was made

Claim 23 is directed to a method of waterless cooking, which places one or more food items with little or no additional water in a cooking pan. The method also requires use of cookware having at least one aperture ***and*** at least one vent therethrough, which also permits waterless cooking (*i.e.* sub-atmospheric pressure).

1. There was no suggestion or motivation to combine the references to teach or suggest a method of using waterless cookware

Similar to the discussion above in section B, Barbour and Bosch are in fields of endeavor distinct from waterless cooking and one of ordinary skill in the art of waterless cooking would not logically look to such references. Barbour, Bosch, and Hupf therefore cannot be properly combined as proposed. The discussion above from section B is incorporated herein and will not be repeated here for the sake of brevity.

2. The proposed combination does not disclose waterless cookware that also includes at least one vent and at least one aperture for a thermometer

Neither Barbour, Bosch, nor Hupf disclose cookware having both an aperture and a vent in a lid and that is ***also*** suitable for waterless cookware. Bosch and Hupf disclose lids for their respective cooking vessels, but such lids only include one opening. As discussed above, Barbour, a reference to outdoor cooking, includes an opening and a vent in the lid, but vents on outdoor cooking vessels do not (and should not) seal sufficiently to achieve the sub-atmospheric pressures that characterize and define waterless cooking.

Accordingly, in light of the response herein, the Applicants respectfully request reconsideration and allowance of claim 23.

D. Claims 20-23 were patentable over the cited references at the time the invention was made in view of the objective evidence of non-obviousness

Even though Applicant is not required to submit evidence of non-obviousness because the Examiner has failed to establish a *prima facie* case of obviousness, the Applicant has submitted secondary evidence of non-obviousness to further illustrate the patentability of the claimed invention.

A declaration of Mr. Richard Cappadona, the President of Carico International Inc. ("Carico") and one of the inventors, was submitted to support patentability. (See Section IX. for a copy of the Declaration that was submitted along with Applicant's response dated January 3, 2002.) The Examiner entered the Declaration into the record in the Office Action dated March 2, 2002. Carico is the assignee of the application at issue.

Upon re-opening prosecution, the new Office Action fails to consider the declaration of Mr. Cappadona that provides evidence of commercial success, long felt need, and that waterless cookware teachings at the time of the invention actually teach away from the claimed invention.

1. Commercial Success

The declaration provides evidence of commercial success of the claimed invention. Carico markets waterless cookware embodying the invention under the "Ultra Tech" trademark. This waterless cookware includes all the features of at least claims 20-22 and is particularly useful for waterless cooking as in claim 23. Carico had sales of its Ultra Tech Cookware of about $15 million in 2000, about $25

million in 2002, and anticipated sales of about $ 32 million in 2002, the year the Declaration was signed. Mr. Cappadona declared that the increased sales volume was attributable in large part to the invention, and not to increased advertising or other factors. Additionally, Carico had received numerous inquiries from companies in Germany, Turkey, and Japan about manufacturing products similar to the Ultra Tech cookware. At the time the Declaration was signed, Carico had declined to consent to others manufacturing such products.

2. Long-Felt Need

The declaration also provides evidence of a long-felt need for the claimed invention. Richard Cappadona spent over two years on research and development of the claimed invention. During this time, he visited housewares shows in Italy, Germany, Asia, and the United States, and also visited knob manufacturers in other countries as well. No waterless cookware embodying the claimed invention was discovered. More specifically, Mr. Cappadona did not find waterless cookware capable of measuring temperature above food items instantaneously or cookware with a thermometer penetrating the lid.

3. Prior Art Teaches Away From the Claimed Invention

Prior art waterless cookware, as indicated by the disclosure in Hupf, indicates that such cookware taught a temperature sensing device that did not protrude through a lid. As illustrated in FIG. 1 of Hupf, his temperature sensing device 150 contacted the exterior of a cooking vessel cover 10 and did not extend through such cover. Accordingly, as stated in Hupf, "[t]he temperature variation of the cooking vessel cover 10 is directly related to the temperature variation within the cooking vessel." (Column 7, lines 60-62.) Hupf therefore stands as an example of prior art waterless cookware that indirectly determines the temperature within the vessel through measurement of the cover temperature. That is, rather than

measuring internal temperatures directly as the claimed invention, the relevant waterless cooking prior art taught the measurement of cover temperatures and the estimation of the internal temperature from such cover temperatures because the internal temperature was directly related to the cover temperature. However, as stated in the Applicant's specification, such indirect measurement could not provide instantaneous measurement of temperature because the cover or lid impedes the response time. (Spec. Page 1, lines 20-23.)

Accordingly, the prior art waterless cookware taught away from using temperature sensing devices that protruded through the cookware lid.

VIII. CLAIMS APPENDIX

1. Canceled.

2. A cooking vessel comprising a pan and a removable lid assembly comprising a lid having a generally convex upper surface and a generally concave lower surface and a peripheral rim, said lid assembly further comprising a knob assembly on said upper surface and defining at least one aperture through said knob assembly and said lid, said lid assembly further comprising a thermometer including a probe extending downward through said aperture and a temperature display, wherein said probe has a bottom end disposed above the rim, said probe containing a temperature sensing device disposed beneath said aperture and within said cooking vessel, wherein said knob assembly includes a whistle body that provides an audible signal in response to flow of vapor therethrough, and a movable member having a dual function notch formed therein that operates selectively both as a release to selectively permit removal of the movable member

for cleaning, and as a slot for vapor discharge to selectively enable the whistle body.

3. A cooking vessel in accordance with claim 2 wherein said knob assembly further includes a knob body attached to said lid, and a vapor discharge aperture communicating with said whistle body through which vapor from the whistle body is discharged, and wherein said dual function notch is movable between a whistle-enabling position in which said notch is aligned with said vapor discharge aperture to permit discharge of vapor therethrough, and a range of whistle-disabling positions in which said notch is not aligned with said discharge aperture, such that said movable member inhibits discharge of vapor therethrough.

4. A cooking vessel in accordance with claim 3 wherein said knob body includes a retaining member, and wherein said notch is movable between a release position in which it is aligned with said retaining member and in which said movable member may be removed from said knob body, and a retained position in which said notch is not aligned with said retaining member, and said retaining member prevents removal of said movable member from said knob body.

5. A cooking vessel in accordance with claim 4 wherein said movable member is rotatable.

6. A cooking vessel in accordance with claim 5 wherein said thermometer is fixedly attached to said movable member.

7. Canceled.

8. A cooking vessel lid assembly comprising a lid with an upper surface and a knob assembly on said upper surface of said lid, said knob assembly including a whistle and a movable member having a dual function notch formed therein that operates selectively both as a release to selectively permit removal of the movable member for cleaning, and as a slot for vapor discharge to selectively enable said whistle.

9. A cooking vessel lid assembly in accordance with claim 8 wherein said upper surface of said lid is generally convex and said lid includes a generally concave lower surface and a peripheral rim.

10. A cooking vessel lid assembly in accordance with claim 8 wherein said lid assembly includes an aperture through said knob assembly and said lid, said lid assembly further including a thermometer extending through said aperture.

11. A cooking vessel lid assembly in accordance with claim 10 wherein said thermometer includes a probe extending downward through said aperture and a temperature display, wherein said probe has a bottom end disposed above said rim.

12. A cooking vessel lid assembly in accordance with claim 8 wherein said knob assembly includes a knob body attached to said lid, a whistle body of said whistle that provides an audible signal in response to flow of vapor therethrough, and a vapor discharge aperture communicating with said whistle

body through which vapor from the whistle body is discharged, and wherein said dual function notch is movable between a whistle-enabling position in which said notch is aligned with said vapor discharge aperture to permit discharge of vapor therethrough, and a range of whistle-disabling positions in which said notch is not aligned with said discharge aperture, such that said movable member inhibits discharge of vapor therethrough.

13. A cooking vessel lid assembly in accordance with claim 12 wherein said knob body includes a retaining member, and wherein said notch is movable between a release position in which it is aligned with said retaining member and in which said movable member may be removed from said knob body, and a retained position in which said notch is not aligned with said retaining member, and said retaining member prevents removal of said movable member from said knob body.

14. A cooking vessel lid assembly in accordance with claim 13 wherein said movable member is rotatable.

15. A cooking vessel assembly comprising a pan, a removable lid assembly comprising a lid having a generally convex upper surface and a generally concave lower surface and a peripheral rim, said lid assembly further comprising a knob assembly on said upper surface and defining at least one aperture through said knob assembly and said lid, said lid assembly further comprising a thermometer including a probe extending downward through said aperture and a temperature display, wherein said probe has a bottom end disposed above the rim, said knob assembly including a whistle body that provides an audible signal in response to flow of vapor therethrough, and a movable member

having a dual function notch formed therein that operates both as a release to selectively permit removal of the movable member for cleaning, and as a slot for vapor discharge to selectively enable the whistle.

16. A cooking vessel in accordance with claim 15 wherein said knob assembly further includes a knob body attached to said lid, and a vapor discharge aperture communicating with said whistle body through which vapor from the whistle body is discharged, and wherein said dual function notch is movable between a whistle-enabling position in which said notch is aligned with said vapor discharge aperture to permit discharge of vapor therethrough, and a range of whistle-disabling positions in which said notch is not aligned with said discharge aperture, such that said movable member inhibits discharge of vapor therethrough.

17. A cooking vessel in accordance with claim 16 wherein said knob body includes a retaining member, and wherein said notch is movable between a release position in which it is aligned with said retaining member and in which said movable member may be removed from said knob body, and a retained position in which said notch is not aligned with said retaining member, and said retaining member prevents removal of said movable member from said knob body.

18. A cooking vessel in accordance with claim 17 wherein said movable member is rotatable.

19. A cooking vessel in accordance with claim 18 wherein said thermometer is fixedly attached to said movable member.

20. Waterless cookware comprising a cooking vessel suitable for use in stove top waterless cooking applications comprising a pan and a removable lid assembly comprising a lid having an upper surface and a lower surface and a peripheral rim, said lid assembly further comprising a knob body on said upper surface and defining at least one aperture through said knob body and said lid, said lid assembly further comprising a thermometer including a probe extending downward through said aperture and a temperature display, wherein said probe has a bottom end disposed above the rim, said probe containing a temperature sensing device disposed beneath said aperture and within said cooking vessel, said thermometer being rapidly responsive to temperature changes within the cooking vessel, and being removable from said knob body by lifting the thermometer therefrom to facilitate cleaning.

21. A cooking vessel in accordance with claim 20 wherein said probe comprises a thin-walled, hollow tubular structure, said bottom end containing the temperature sensing device communicating with the display.

22. A cooking vessel in accordance with claim 20 wherein said lid assembly further comprises a holder that is removable from the lid for supporting said thermometer and a retaining member on the lid that selectively retains the thermometer thereon.

23. A method of waterless cooking comprising placing one or more food items with little or no additional water in a cooking pan having a bottom wall, at least one side wall, and a removable lid assembly, said lid assembly comprising a lid having an upper surface and a rim, and having a knob assembly on said upper

surface and said lid assembly having at least one aperture in the lid and at least one vent therethrough, and a thermometer including a probe extending downward to through said aperture and a temperature display, said probe having a lower end disposed slightly above the elevation of the rim of the lid;

applying heat to the bottom of the pan;

measuring temperature with said probe, said probe having a temperature sensing device disposed beneath said aperture and within said pan, above all of said food items to measure temperature between said food items and said lid assembly; and

when the temperature in the pan reaches a predetermined point, closing the vent and reducing the rate at which heat is supplied to the pan to cook the food items at low temperatures and pressures.

IX. EVIDENCE APPENDIX

A. Cited References (Office Action dated October 25, 2005)

1. US 6,293,271 (Barbour)
2. DE 75 27 182 (Bosch)
3. US 6,004,000 (Hupf et al.)

B. Declaration of Richard R. Cappadona (copy enclosed). Submitted along with the Amendment dated January 3, 2002 and entered into the record by the Examiner in the Office Action dated March 6, 2002.

X. RELATED PROCEEDINGS APPENDIX

None.

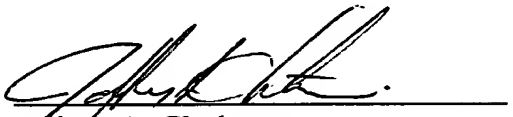
XI. CONCLUSION

In view of the foregoing discussion, the Applicants respectfully request reversal of the rejection of the rejected, pending claims.

Respectfully submitted,

FITCH, EVEN, TABIN & FLANNERY

Dated: January 25, 2006



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Application No.:	09/425,436
Filed:	October 22, 1999
Title:	LID FOR COOKING PAN
Group Art Unit:	1761
Examiner:	D. Becker

CERTIFICATE OF MAILING

I hereby certify that this paper is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Commissioner of Patents and Trademarks, Washington D.C. 20231, on this date.

01/03/02
Date

Joseph E. Shipley
Registration No. 31,137
Attorney for Applicant(s)

DECLARATION OF RICHARD R. CAPPADONA

I, RICHARD R. CAPPADONA, declare under penalty of perjury:

1. I am the president of Carico International Inc., the assignee of the above-captioned application, and am one of the inventors of the patent application. I have 39 years of experience in the cookware industry.

2. The invention claimed in the patent application has been a commercial success. Carico markets cookware embodying the invention under the "Ultra Tech" trademark. This cookware includes the Carico Ultra Tech knob, which has a thermometer that measures the temperature within the pan instantaneously. Our Ultra Tech cookware includes all of the features of at least claims 20-22 of the patent application, and is particularly

useful for waterless cooking as described in claim 23. Carico actively promotes waterless cooking using the Ultra Tech cookware.

3. In the first year that Carico launched its Ultra Tech Cookware, 2000, we shipped product having a retail value of about $15 million. For 2001, the value was about $ 25 million. For 2002, we anticipate shipping about $32 million. I believe that the increases in sales volume are attributable in large part to the invention, not to increased advertising or other factors.

4. I understand that claims 20-22 have been rejected in view of prior art patents disclosing thermometers in a pressure cooker and in a Weber grill. In my opinion, neither of these patents can fairly be interpreted as suggesting our invention. Pressure cookers function at high temperatures and pressures, i.e., above the boiling point of water, and above ambient pressure. The principles involved in cooking with a pressure cooker are opposite to those of waterless cooking. A pressure cooker requires a locking arrangement to hold and seal the lid in place and maintain internal pressure. A pressure cooker also requires a pressure relief valve that permits increased pressure to be maintained up to a limit. This enables cooking at high temperatures and pressures to take place, while preventing dangerously high pressure from building up in the interior of the cooker. In contrast, waterless cooking takes place at reduced temperatures and at reduced pressures, i.e. under subatmospheric

or partial vacuum conditions, and waterless cookware does not include locking arrangements or pressure relief valves. Cooking in a Weber grill is also much different from stove top cooking using cookware or cooking methods embodying the invention. I believe that a person of ordinary skill in the art would not look to patents on outdoor grills or on pressure cookers for suggestions on modifications to waterless cookware.

5. The invention was not obvious to me at the time it was made, and in my opinion would not have been obvious to a person of ordinary skill in the art of designing and manufacturing cookware. I spent over two years on research and development of this product. I have visited housewares shows in Italy, Germany, Asia and the United States, and I have met with knob manufacturers in various countries as well. To the best of my knowledge, our invention represents the first waterless cookware that is capable of measuring temperature above food items instantaneously. To the best of my recollection, I have not seen any stove top cookware having a thermometer penetrating the lid of a pan as described in claim 20. In particular, to the best of my recollection, I have not seen a pressure cooker having a thermometer penetrating the lid as in the Bauer reference, and I do not believe that the pressure cooker shown in the Bauer reference is a commercial product.

6. To the best of my knowledge, the desirability of

instantaneously measuring temperature above food items in waterless cooking has not been recognized in the past. I believe that the problem addressed by our invention was not recognized in the prior art, which makes it very unlikely that the invention would have been obvious.

7. To the best of my knowledge, there is no other waterless cookware on the market that enables instantaneous determination of temperature. Moreover, to the best of my knowledge, the desirability of providing instantaneous temperature measurement was not recognized in the prior art, and the problem of how to accomplish this was neither recognized nor addressed.

8. Our Ultra Tech cookware is the talk of the industry. I have had inquiries from companies in Germany, Turkey and Japan about manufacturing products similar to our Ultra Tech cookware. We have declined to consent to others manufacturing such products. However, based on my experience in the industry, it is very likely that other companies will copy our invention without permission, unless we have effective patent protection.

9. I declare that all statements of fact made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the

United States Code, and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

Dated: January 3, 2002

Richard R. Cappadona

Richard R. Cappadona